

**MINUTES OF THE
PRIVATE PROTECTIVE SERVICES BOARD MEETING
AUGUST 21, 2014
RENAISSANCE ASHEVILLE HOTEL
31 WOODFIN STREET
ASHEVILLE, NC 28801**

BOARD MEMBER PRESENT

Bill Booth
Ed Cobbler
Clyde Cook
Marcus Benson
William MacRae
Richard Epley
Eric Weaver Sr.
Robert Clark
Bud Cesena
Donald Foster

BOARD MEMBERS ABSENT

Judge Burris

STAFF PRESENT

Terry Wright - Director
Anthony Bonapart - Deputy Director
Phillip Stephenson – Field Services Supervisor
Jeff Gray – Attorney
Judy Pittman - Training Officer
Garcia Graham – PPSB Board Secretary
Maia Washington-Powell – PPSB Licensing Assistant

GUEST PRESENT

David Wall
David Arndt
Sam Poston
Gregory Hatten
Pam Mayfield
Richard Smith
Keith Hession
Yvonne Coburn
Barbara Green

Jason Vasilko
Vincent Cesena
Jonathan Lynch
Sandra Epley
Steven Atkinson
Robert Talton
Keith Warren
Bill Fletcher

Bill Dover
Hayden Church
Chris Green
Beatrice Powers
Dorian Dehnel
Cory Barnette
Ruth Reynolds
Jerry Pitman

CALL TO ORDER

Chairman Eric Weaver called the August 21, 2014 Private Protective Services Board meeting to order at 9:02 a.m. Chairman Weaver welcomed all guests and recognized new board members Vincent "Bud" Cesena and Donald Foster.

GOOD OF THE ORDER:

Attorney Jeff Gray explained the State Ethics Act, which addresses the ethics of public officials. This Act states specifically that if any Board Member has any conflict of interest, potential conflicts of interest, or the appearance of a conflict, he or she should remove themselves from deliberation and vote on that matter and so state on the record.

Mr. Gregory Hatten, president of the NCAPI greeted the Board and all of the guests. He reported that there are currently over 320 industry members registered for the 2014 Fall Conference to be held in Cherokee, NC.

Attorney Jeff Gray conducted the election of the new Board officers.

MR. EPLEY MADE A MOTION TO APPOINT MR. ERIC WEAVER AS CHAIRMAN; SECONDED BY MR. COOK. MOTION CARRIED. NONE OPPOSED.

MR. BOOTH MADE A MOTION TO APPOINT MR. MONTY CLARK AS VICE CHAIRMAN; SECONDED BY MR. COBBLER. MOTION CARRIED. NONE OPPOSED.

MR. WEAVER MADE A MOTION TO APPOINT MR. MONTY CLARK AS CHAIRMAN OF THE SCREENING COMMITTEE; SECONDED BY MR. COBBLER. MOTION CARRIED. NONE OPPOSED.

MR. COBBLER MADE A MOTION TO APPOINT MR. BILL BOOTH AS CHAIRMAN OF THE GRIEVANCE COMMITTEE; SECONDED BY MR. CLARK. MOTION CARRIED. NONE OPPOSED.

MR. WEAVER MADE A MOTION TO APPOINT MR. RICHARD EPLEY AS CHAIRMAN OF THE LAW AND RULES COMMITTEE (FORMERLY 74C REWRITE COMMITTEE); SECONDED BY MR. BOOTH. MOTION CARRIED. NONE OPPOSED.

MR. COBBLER MADE A MOTION TO APPOINT MR. WILLIAM MACRAE AS CHAIRMAN OF THE FINANCE COMMITTEE; SECONDED BY MR. WEAVER. MOTION CARRIED. NONE OPPOSED.

MR. WEAVER MADE A MOTION TO APPOINT MR. CLYDE COOK AS THE PPSB ETHICS LIASION; SECONDED BY MR. COBBLER. MOTION CARRIED. NONE OPPOSED.

MR. WEAVER MADE A MOTION TO APPOINT MR. ED COBBLER AS CHAIRMAN OF THE TRAINING & EDUCATION COMMITTEE; SECONDED BY MR. BOOTH. MOTION CARRIED. NONE OPPOSED.

MINUTES:

APPROVAL OF THE APRIL 24, 2014 MEETING MINUTES

Mr. MacRae informed staff that he and Mr. Weaver were not listed in the minutes as part of the T&E committee. Mr. Bonapart advised that the minutes would be corrected before being posted on the website.

MOTION BY MR. BOOTH TO ACCEPT THE MINUTES; SECONDED BY MR. CLARK; MOTION CARRIED.

SCREENING COMMITTEE REPORT:

Mr. Clark reported that the Screening Committee met on Wednesday, August 20, 2014 from 2:00 p.m. to 5:24 p.m. to review a total of 49 applications. (See report). The committee members were Mr. Clark, Mr. Weaver, Mr. Cobbler, Mr. MacRae and Mr. Benson. Mr. Clark read the report for the record.

Mr. Weaver recused himself from #5, #26 and #32 of the screening report.

Mr. Clark discussed the business plan submitted by Black Diamond regarding whether or not a license is necessary to carry a firearm during transportation.

On July 9, 2014, Mr. Daniel Newell submitted a business plan to the Board outlining his new company. He stated that the principle service he will offer to citizens is transportation. His main area of operation will be Charlotte. He stated that he will provide limousine services to a wide variety of clients from NBA stars, NFL players, celebrities and NASCAR. He stated that he would like to provide armed drivers at an additional cost to his customers. He explained that he would only hire personnel that have attended personal protection classes.

The committee discussed the business plan with Mr. Newell. The Board determined that the company would need to apply for the private investigator license to offer those services.

Mr. Clark also discussed the letter submitted to the Board by Mr. Leonard Wolf in reference to the requirements to obtain a guard dog profession license. Due to the fact that this might require a change in the statutes, the matter was referred to the Law and Rules Committee.

Mr. Clark presented the following registration report for the period of June 25, 2014 to August 18, 2014. Total registrations 3,874; armed totals were 565 of which 159 were new and 263 were renewals, and 143 reissue/dual. There were a total of 127 Armed Armored Car, 55 of which were new, 69 were renewals, 1 duplicate and 2 reissue/dual. There were a total of 11 Armed Private Investigators, 5 were new and 6 renewals; 2 new Private Investigator Associates, 5 renewals and

1 reissue/dual. Unarmed totals were 3,149 which included 1,264 new, 1,703 renewals, 174 transfers, 4 duplicates and 4 reissue/dual. There were a total of 14 unarmed armored car, 10 of which were new. Total denials were 827 of which 184 were for cause and 643 for correctable reasons. There were 716 applications approved which were previously denied for a total of 1,543 denials reviewed.

MOTION BY MR. COBBLER TO ACCEPT THE SCREENING COMMITTEE REPORT AND THE REGISTRATION REPORT; SECONDED BY MR. MACRAE; MOTION CARRIED.

GRIEVANCE COMMITTEE REPORT:

Mr. Booth reported the Grievance Committee met on Wednesday, August 20, 2014 from 8:04 a.m. until 10:39 a.m. and heard a total of 5 cases. The committee members were Mr. Booth, Mr. Weaver, Mr. Cook and Mr. Epley. Mr. Booth presented the attached report. (See attachment).

MOTION BY MR. MACRAE TO ACCEPT THE GRIEVANCE COMMITTEE REPORT; SECONDED BY MR. BENSON; MOTION CARRIED.

TRAINING & EDUCATION COMMITTEE:

Mr. Clark advised that the Training & Education Committee met on Thursday, August 21, 2014 from 8:03 a.m. until 9:00 a.m. The committee members were Mr. Weaver, Mr. Cobbler, Mr. Cesena, Mr. Booth, Mr. Epley, Mr. MacRae and Mr. Clark.

Presently we have 350 certified PPS unarmed guard trainers and 92 PPS certified armed guard trainers.

The following PPS Training Courses for CEU Credits have been scheduled:

| | | |
|-------------------|-----------|---------------|
| August 21, 2014 | 1pm – 5pm | Asheville, NC |
| December 11, 2014 | 1pm – 5pm | Raleigh, NC |

The following PPSB Training Courses for CEU credit have been completed:

| | | |
|---------------|----------|---------------|
| July 30, 2014 | 9am- 1pm | Charlotte, NC |
|---------------|----------|---------------|

The following PPS Training Courses have been completed:

| | |
|-------------------|------------------------|
| July 28- August 1 | UAGT Course & Workshop |
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The following PPS Trainer courses are scheduled:

| | |
|----------------------|---|
| September 8-12, 2014 | (1800-1700) FT Certification Course NCJA |
| September 15, 2014 | (1000-2300) FT Re-certification & Pre-Qualification Course NCJA |

September 22-26, 2014 (0800-1700) UAGT Course & Workshop at WTCC
November 3-7, 2014 (0800-1700) UAGT Course & Workshop at WTCC
November 17, 2014 (1000-2300) FT Re-certification & Pre-Qualification Course NCJA

Mr. Epley reported that there were sixteen (16) continuing education courses submitted for approval. All submissions are recommended for approval.

MOTION BY MR. BOOTH TO ACCEPT THE SUBMISSION FOR CONTINUING EDUCATION TRAINING; SECONDED BY MR. BENSON; MOTION CARRIED.

The Board discussed the issue regarding changing the firearms re-qualification from one year to two years.

MOTION BY MR. BOOTH TO KEEP THE FIREARMS RE-QUALIFICATION AS IS; SECONDED BY MR. MACRAE; MOTION CARRIED.

MOTION BY MR. BOOTH TO ACCEPT THE TRAINING AND EDUCATION COMMITTEE REPORT; SECONDED BY MR. COBBLER; MOTION CARRIED.

GRIEVANCE COMMITTEE:

NONE

SCREENING COMMITTEE:

NONE

LAW AND RULES COMMITTEE

Mr. Epley related that he would like to spend time with Mr. Gray to review the recent House Bill. He would like to discuss and develop a plan of action to submit changes of PPSB statutes to the legislature. Mr. Epley would also like to address reducing the members of the Law and Rules Committee. Mr. Weaver responded that those are good issues and suggested tabling the discussion until the three day meeting in October. The three-day meeting is scheduled for October 21-23, 2014 which will provide more time to discuss various issues.

FINANCE REPORT:

Mr. MacRae reported that he distributed the financial activity sheet to all Board members. He related that he spoke with Mr. Wright and Mr. Bonapart about an expense for temporary services. We use temporary employees that are provided by the temp agency. During this period the cost for temp services increases substantially. Mr. Wright will be researching that expense to find out why the increase occurred.

MOTION BY MR. CLARK TO ACCEPT THE COMMITTEE'S REPORT; SECONDED BY MR. COBBLER; MOTION CARRIED.

ETHICS COMMITTEE:

Mr. Cook stated that some Board members may want to talk with him one-on-one about ethics issues. He will gladly meet with any Board member to discuss any ethical issues that may arise. He reminded all Board members to maintain required training. Additionally, Board members are mandated to submit Statement of Economic Interest (SEI) annual reports.

BREAK: 9:56 a.m.
BACK IN SESSION: 10:17a.m.

OLD BUSINESS:

Mr. Weaver discussed the location of the 2015 Board meetings. All meetings are scheduled for Raleigh except the February 2015 Board meeting dates. Mr. Benson reiterated his position that all Board meetings should be held in Raleigh. It is more cost effective to have all meetings in Raleigh. He thanked Mr. Bonapart for providing data on attendance at previous Board meetings showing that attendance is high in Raleigh. Mr. MacRae reviewed the attendance data provided to the Board. The data shows only one person attending Board meetings from specific counties. He stated that until there are stronger attendance numbers in other locations, the meetings should stay in Raleigh. Mr. Foster stated that we need data on where the bulk of our licenses are located in the state. Data showing where our licenses reside in the state will help us make better decisions. Mr. Booth agreed and stated we need to know where our licenses are from. The last two years we are getting only one representative from specific counties. Mr. Cook stated that the board should try to cut expenses and keep all meetings in Raleigh.

After much discussion the Board agreed to hold the February 17-19, 2015 (three-day) meeting in Charlotte. All other 2015 Board meetings will be held in Raleigh.

MOTION BY MR. EPLEY TO ACCEPT THE PROPOSED 2015 MEETING DATES; SECONDED BY MR. BOOTH; NAY MR. BENSON AND MR. CESENA; MOTION CARRIED.

Mr. Bonapart presented his report on registration and licensing appeals caseload statistics.

MOTION BY MR. MACRAE TO ACCEPT THE REPORT; SECONDED BY MR. BOOTH; MOTION CARRIED.

NEW BUSINESS:

Mr. Benson asked if it were possible for the Board members to be assigned email addresses through the Department of Public Safety. Mr. Wright advised that he would be meeting with DPS on August 25th and will inform the Commissioner of the request.

Mr. Benson also inquired about the assignment of a proxy for chairpersons. Mr. Weaver advised that this would be handled at the October Board meeting during the work session. He also stated

that if there were any Board members who did not wish to serve on a particular committee to let him know.

BREAK: 10:59 a.m.
BACK IN SESSION: 11:10 a.m.

FINAL AGENCY DECISION

Attorney Jeff Gray removed himself as counsel to the Board to present the following cases.

The Board received the official record for the following case:

Thomas Eliza Anderson 11 DOJ 10367 (attachment 3). Mr. Anderson was not present. This case was heard by Administrative Law Judge Melissa Owens Lassiter on May 27, 2014. This case involved the denial of Petitioner's unarmed guard registration renewal based on lack of good moral character and temperate habits as evidenced by a conviction of misdemeanor Assault on a Female on February 16, 2010.

Administrative Law Judge Melissa Owens Lassiter proposes that Respondent issue an unarmed guard permit to Petitioner.

MOTION BY MR. CLARK TO UPHOLD JUDGE'S DECISION AND GRANT AN UNARMED GUARD REGISTRATION; SECONDED BY MR. COBBLER; MOTION CARRIED.

DIRECTOR'S REPORT:

Deputy Director Anthony Bonapart read the report for the record. The current PPS budget as of July 31, 2014, has a balance of \$1,069,613.87; the Education Fund balance is \$68,335.35. As of August 18, 2014, the total registrations for PPS is 18,514, 1,709 licensees, and 588 certifications.

Mr. Bonapart reported that there have been a total of 2,891 various correspondences printed from the PPS database, 4361 registration cards have been printed and a total of 5,032 applications received since the last Board meeting.

MOTION BY MR. BOOTH TO ACCEPT THE DIRECTOR'S REPORT; SECONDED BY MR. COOK; MOTION CARRIED.

Mr. Wright advised the Board that the online system is scheduled to go live in the Winter of 2014.

A Resolution honoring Ms. Helen Parker's dedicated service to the State of North Carolina was read by Mr. Bonapart.

Attorney Gray advised the board that the issue regarding virtual offices had not been discussed.

MOTION BY MR. BOOTH TO DEFER THE DISCUSSION OF VIRTUAL OFFICES TO THE OCTOBER MEETING; SECONDED BY MR. MACRAE; MOTION CARRIED.

Attorney Gray also advised the Board that a vote was needed on the renewal of his contract.

MOTION BY MR. BOOTH TO RENEW ATTORNEY GRAY'S CONTRACT FOR ONE YEAR WITH A TWO YEAR OPTION; SECONDED BY MR. MACRAE; MOTION CARRIED.

ATTORNEY'S REPORT:

Attorney Gray discussed the following:

I. CONSENT AGREEMENT, SETTLEMENT AGREEMENTS & CIVIL PENALTIES

1. Paul Manley Jr. /Show Pros Entertainment Services of Charlotte, Inc. On October 24, 2013 the Private Protective Services Board voted to enter into a consent agreement with Mr. Manley in the amount of \$15,586.40 in twelve monthly installments for registration violations with the first payment due January 1, 2014. The eighth payment was received on August 1, 2014. (\$1,298.86).
2. Scott Smithers/Eye Spy Investigations. On December 12, 2013, the Private Protective Services Board voted to suspend Mr. Smithers' private investigator license for a period of ninety (90) days, but suspend the suspension if he provided his client a written report and then only assess a civil penalty in the amount of \$1,000.00 for failing to offer a written report to a client. The licensee rejected the offer of settlement and requested an administrative hearing. A hearing was held in the Office of Administrative Hearings on February 25, 2014. The Amended Proposal for Decision and the Official Record have been received and the Final Agency Decision hearing is scheduled for the Board's October 23rd meeting.

II. OFFICE OF ADMINISTRATIVE HEARINGS

| | | |
|-------------------|----------------------------|---|
| June 24, 2014 | PPSB Kerry Allen Graves | Suspension of license for 90 days |
| | PPSB Thomas Eliza Anderson | Denial of Unarmed Permit |
| February 25, 2014 | PPSB Alvin Thomas Bennett | Summary suspension of firearms registration permits |
| | PPSB Scott Eric Smithers | Suspension of license for 90 days |

| | | |
|-----------------|--------------------------------|---|
| May 27, 2014 | PPSB Thomas Eliza Anderson | Denial of Unarmed Permit |
| July 29, 2014 | PPSB David R. Beatson | Denial of Unarmed Permit |
| August 26, 2014 | PPSB Jermaine Chareem Norfleet | Denial of Security Guard & Patrol License |

III. RULES

1. The rule change to 12 NCAC 07D.0901(e) to delete the provision allowing firearms instructors certified by the Criminal Justice Education and Training Commission to pay only one-half the course fee amount to attend the required portion of the firearms trainer course was approved by the Rules Review Commission at its June 18, 2014 meeting. It became effective July 1, 2014.
2. Board staff recently discovered that there are no rules governing “authorized firearms” or “uniforms and equipment” in the recently adopted Unarmed Armored Car Service Guards and Armed Armored Car Service Guard administrative rules (i.e. 12 NCAC 07D Section .1400 and 12 NCAC 07D Section .1500). The G.S. 150B-19.1 Certification form for these rule changes were filed May 14, 2014 and the Rules Review Commission certified amended 12 NCAC 07D.0809 and 12 NCAC 07D and new 12 NCAC 07D.1408 and 12 NCAC 07D.1508 at its June 18, 2014 meeting. Attorney Gray filed the Notice of Text for these rules on July 8, 2014. The Public Hearing will be held at the Board’s office, 4901 Glenwood Avenue, Suite 200, Raleigh, North Carolina 27612 on August 27, 2014 at 2:00 p.m., and the Public Comment Period ends September 30, 2014.
3. During discussions regarding implementation of the Board’s new on-line application and renewal program, staff also realized that there is no rule regulating the length of time between submission of an application for a license, registration for renewal of a license or registration and the completion of the application process.

The lack of a “cut-off” for the application process will prevent closure of the file in the new system and such applications will otherwise remain open indefinitely. The G.S. 150B-19.1 Certification form for this rule change was filed on May 14, 2014 and the Rules Review Commission certified amended 12 NCAC 07D.0116 at its June 18, 2014 meeting. Attorney Gray filed the Notice of Text for this rule amendment on July 8, 2014. The Public Hearing will be held at the Board’s office, 4901 Glenwood Avenue, Suite 200, Raleigh, North Carolina 27612 at 2:00 p.m., and the Public Comment Period ends September 30, 2014.

4. Mr. Gray has previously reported that during the 2012 Session of the Legislature, the Joint Legislative Administrative Oversight Committee replaced the Joint Select Regulatory Reform Committee. This Committee has oversight over the

study by the Program Evaluation Division (PED) of the structure, organization and operation of all occupational licensing boards in the State and the feasibility of a single “umbrella” agency as required by Section 10(a) of S.L. 2013-413. Mr. Gray has attended the meetings of this Committee. At its June 23, 2014 meeting, the Principal Evaluator of the PED (in lieu of the Director) reported to the Committee on the status of this study.

The PED began the process of evaluation of boards in May, 2014. Only four (4) boards were visited and the staffs interviewed. The remainder will be evaluated through a “questionnaire” which all boards, including the PPSB, received on July 9th. It contained 58 questions, the majority of which were related to financial issues. The responses were submitted by the deadline of July 31st. The PED’s final report on all occupational and professional licensing boards is due to the Administrative Procedures Oversight Committee by December 31, 2014.

5. During the 2013 Session of the legislature, the General Assembly passed S.L. 2013-413 (still commonly referred to as “House Bill 74”) which amended Chapter 150B of the General Statutes to add a new section, N.C.G.S. § 150B-21.3A, requiring a periodic review and expiration of existing rules. (See, October 24, 2013 Attorney’s Report.) The review of all rules for all State agencies is anticipated to be a five (5) year process. Administrative rules governing the review process have been adopted by the Rules Review Commission and a chart of the review schedule has been released. The Board’s rules are scheduled for review in August, 2018. A flow chart detailing the review process was attached in the April 24, 2014 Attorney’s Report.

IV. LEGISLATION

1. The General Assembly has yet to adjourn for its 2013-2014 Biennial Session. To date, there has been no further movement of House Bill 466, “Amend Private Protective Services Act/Fees,” since passage by the House and referral to the Senate Judiciary I Committee on April 29, 2013.
2. As you are aware, a provision in the State Budget (Senate Bill 784) transferred the Private Protective Services Board and the Alarms Systems Licensing Board to the Department of Public Safety. In addition to the transfer, the provision changes the designated representative to the Secretary of Public Safety and gives the Governor the Attorney General’s two (2) appointments.

Staff has already had two initial meetings with the head of financial and human resources for DPS.

V. PENDING CASES

1. As previously reported, the Plaintiff has refiled the civil action against Board Investigator Sarah Conner, the Board, the City of Charlotte, the Charlotte-Mecklenburg Police Department and various officers of the Charlotte-Mecklenburg PD in *Kelly v. Conner, et al.*, No. 3:13-CV-636 – WDNC. Mr. Kelly was unlicensed as a security guard business and unregistered, but performing security guard and patrol services. He is also a convicted felon. He was arrested and charged with, among other violations, violating Chapter 74C.

The Plaintiff's attorney had difficulty serving all parties, and one party failed to answer; this party has now been defaulted and there is "joinder of parties" under the Federal Rules of Civil Procedure. The time for discovery and the filing of motions began to run on April 9, 2014. The board received Plaintiff's First Set of Interrogatories and Request for Production of Documents on May 2, 2014. Staff and Attorney Gray have begun preparing responses to Plaintiff's discovery requests but will not make the initial deadline of June 30th. The Plaintiff's attorney stipulated to a 30 day extension of time and the Board's discovery responses were served on August 1st. Attorney Gray will file a Motion to Dismiss on behalf of the board. The Attorney General's Office is again representing Ms. Conner.

VI. MISCELLANEOUS

1. On July 10, 2014 Governor Pat McCrory signed SB 741 (S.L. 2014-67), "An Act to Enhance the Effectiveness of the Occupational Licensing of Military Service Members." This Act amends the recently enacted amendments to Chapter 93B of the General Statutes regarding military-trained applicants and applicants who are spouses of active duty military. (Note: The Board's amendments to its administrative rules to effectuate these requirements were effective October 1, 2013.)

The Act deleted the provision in N.C.G.S 93B-15.1(a)(1) that the applicant's experience is a determination to be made by the Board. It also requires the Board to notify the military-trained applicant within 30 days following receipt of an application whether the applicant's military training and experience satisfies the requirements for licensure that are satisfied by military training and experience and publish it on the Board's website and the website of the North Carolina Division of Veterans Affairs. The Board must further contact training offices at military installations or any other federal offices that provide information on military occupational specialties and training for the purpose of acquiring information necessary for determining the applicability and correlation of military training and experience to the criteria and requirements for licensure, certification or registration.

No later than September 1, 2014, each occupational licensing board shall submit a report to the co-chairs of the Legislative Research Commission Study Committee on Civilian Credit for Military Training and State Adjutant Selection Criteria with the status of the required document and the results of their consultation with military training officials as required by the Act.

Many questions have been raised by this new legislation and Attorney Gray will be working with staff, as well as the attorneys and staff for similar occupational licensing boards such as the Criminal Justice Education and Training Standards commission, the Sheriff's Education and Training Standards Commission and the Alarm Systems Licensing Board, to ensure an efficient, economic and practical implementation of the Act.

Board staff have already made initial contact with each of the five branches of the military.

2. At the Board's April 24, 2014 meeting, the Board requested that Mr. Gray prepare a Memorandum regarding virtual office and the Board's branch office requirements.

MOTION BY MR. BOOTH TO ACCEPT ATTORNEY'S REPORT; SECONDED BY MR. CLARK; MOTION CARRIED.

PUBLIC COMMENT:

NONE

MOTION BY MR. BOOTH TO ADJOURN; SECONDED BY MR. COOK; MOTION CARRIED.

11:52 a.m. Adjourned

Anthony B. Bonapart, Deputy Director

Maia Washington-Powell, Licensing Assistant